

Message Text

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ACTION SS-30

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R 272100Z FEB 74

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 7599

C O N F I D E N T I A L SANTIAGO 0958

EXDIS

EO 11652: GDS

SUBJ: CERRO, EXOTICA

PASS OPIC AND TREASURY

1. CERRO-GOC NEGOTIATIONS, ACCORDING TO SEPARATE REPORTS FROM CERRO REPS AND PHILIPPI, SEEM TO BE PROCEEDING WELL. THE PRESENT VALUE CONCEPT OF MAY 1971 CONVENIO HAS BEEN PRESERVED, ALTHOUGH IT IS POSSIBLE THAT THE FIGURE IN THAT CONVENIO MAY BE REDUCED BY A RELATIVELY SMALL AMOUNT (LESS THAN \$500,00 OUT OF \$38 MILLION). THE TRANSACTION IS BEING RESTRUCTURED AS FOLLOWS

A) GOC WILL PAY IN CASH COMPENSATION FOR CERRO'S EQUITY IN AMOUNT DETERMINED BY COPPER TRIBUNAL (\$13.255 MILLION) WITH INTEREST AT 7 PERCENT P.C. SINCE DATE OF NATIONALIZATION.

B) GOC WILL PAY CERRO IN CASH THE PRINCIPAL AMOUNT OF ANDINA NOTES HELD BY CERRO, TOGETHER WITH ACCRUED INTEREST TO DATE OF PAYMENT (TO TAKE PLACE AS OF 28 FEB 74). THESE NOTES WILL BE TRANSFERRED TO CODELCO AT THE CLOSING.

C) THE CASH PAYMENTS WILL BE FINANCED BY LOANS FROM CERRO, PAYABLE OVER 17 YEARS. AN INITIAL PAYMENT OF \$2.7 MILLION WOULD BE MADE AT CLOSING.

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D) GOC WILL AGREE TO SELL CERRO 69,000 TONS OF SMELTER INTERMEDIATES (ON HAND) AND 23,000 TONS OF CONCENTRATES (TO BE PRODUCED IN 1974). THE PURCHASE PRICE WILL BE APPLIED TO PREPAYMENT OF ALL NOTES, PREPAYMENTS TO BE APPLIED IN

INVERSE ORDER OF MATURITY. CERRO CALCULATES THAT AMOUNT OF SUCH PREPAYMENTS COULD BE ABOUT \$28 MILLION AT \$.70/LB. COPPER.

E) THE FINANCING FOR THE EXPANSION OF ANDINA HAS BEEN SECURED FROM SUMITOMO (IN EXCHANGE FOR RELIEF UNDER THE RATHER TOO FAVORABLE TERMS OF THE CONCENTRATES AGREEMENT).

F) CERRO WILL PROCEED TO NEGOTIATE AN AGREEMENT FOR TECHNICAL AND ENGINEERING ASSISTANCE, AND PERHAPS PURCHASING AND SALES AGREEMENTS AS WELL. THESE AGREEMENTS WILL RELATE TO THE ANDINA EXPANSION BUT MAY ALSO COVER OTHER PROPERTIES.

G) THE TAX CLAIMS HAVE BEEN RESOLVED, OR AT LEAST REDUCED TO AN INSIGNIFICANT LEVEL.

2. NEGOTIATION OF PROVISIONS ON CHOICE-OF-LAW AND SUBMISSION TO JURISDICTION CONTINUES. ALTERNATIVES UNDER CONSIDERATION INCLUDE REFERENCE TO FOREIGN LAW AND SUBMISSION TO FOREIGN TRIBUNALS.

3. PROPOSED FORM OF AGREEMENT REQUIRES AS A CONDITION OF CLOSING THE PROVISION OF WRITTEN OPIC CONSENT THERETO. AFTER RECEIVING AND REVIEWING DRAFTS OF AGREEMENTS (HOPEFULLY BY THURSDAY) OPIC REP WILL CABLE A PROPOSED FORM OF CONSENT FOR OPIC CONSIDERATION.

4. PHILIPPI STILL WORKING FULL TIME ON CERRO, BUT ADVISES HE WILL TRY TO BE AVAILABLE TO DISCUSS EXOTICA WITH OPIC REP NEXT WEEK AS PREVIOUSLY PLANNED.

5. MORGAN STAYING AT HOTEL CRILLON.
POPPER

NOTE BY OC/T: NOT PASSED OPIC AND TREASURY.

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